

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7440

BILL NUMBER: HB 1524

NOTE PREPARED: Jan 12, 2003

BILL AMENDED:

SUBJECT: Mechanic's Liens.

FIRST AUTHOR: Rep. Kuzman

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: This bill establishes the Indiana Mechanic's Lien Recovery Fund. The bill provides that a subcontractor and supplier who contribute to the fund shall be reimbursed from the fund if the subcontractor or supplier is not compensated for work done on an owner occupied residence.

The bill requires the Attorney General to administer the Fund and initiate legal actions to recoup amounts paid from the Fund and civil penalties.

Effective Date: July 1, 2003.

Explanation of State Expenditures: The Attorney General's office would administer the Mechanic's Lien Recovery Fund, a fund established to provide payment to secondary contractors who enter into a separate contract with a person contracted to build or work on an owner occupied residence. The bill would allow the Attorney General to employ special deputy attorneys to adopt rules for: paying claims from the Fund; establishing a system for recording and assigning identifying numbers to contributing contractors; initiating and prosecuting civil actions to impose penalties and recoup money paid from the fund; and establishing a procedure for payment of claims from the Fund if a judgement has not been attained against a nonpaying party.

In carrying out these provisions, it is expected that the Attorney General's office will be required to hire additional staff. While the bill does not contain an appropriation, it does establish that the Office may use fees and fine collected in the Mechanic's Lien Recover Fund to administer the Fund (See *Explanation of State Revenues*, below).

Funds for administering the program that are not provided through receipts to the Mechanic's Lien Recovery Fund could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Background Information: The Mechanic's Lien Fund is designed to provide a means through which secondary contractors can receive payment for services rendered on an owner occupied residence in the event that the secondary contractor is not lawfully compensated by the primary contractor. The bill provides that contractors are required to submit to homeowners a notice that specifies that the homeowner is not liable for amounts sought under a mechanic's lien filed by secondary contractor if the secondary contractor has made a contribution to the Fund and the Fund is solvent.

In the event that a contributing secondary contractor files a mechanics lien with a superior or circuit court and a judgement is obtain, the contractor may submit the judgement to the Attorney General for payment from the Fund. If money is available in the Fund, the Attorney General may approve a payment of up to \$75,000 for each residence. In the event that the Fund is not solvent, the contractor may pursue the mechanic's lien.

Explanation of State Revenues: The Mechanic's Lien Fund is comprised of a one-time voluntary contribution of \$195 made by original and secondary contractors. It also is comprised of civil penalties imposed against persons who fail to properly remunerate a contributing contractor. The Attorney General may impose a penalties of up to \$10,000. The number of primary and secondary contractors who would contribute to the Fund is unknown.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Attorney General's Office.

Local Agencies Affected: Circuit and superior courts.

Information Sources: Jennifer Thuma, Legislative Counsel, Attorney General's Office, 233-6143.

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